

## § 1416.300

## 7 CFR Ch. XIV (1–1–08 Edition)

(b) Such payment reduction shall be applied after the imposition of the applicable per-person payment limitations in § 1416.6.

### Subpart D—Citrus Disaster Program

#### § 1416.300 Applicability.

This subpart sets forth the terms and conditions applicable to the Citrus Disaster Program.

#### § 1416.301 Definitions.

*Citrus* means eligible citrus types that are those listed within the Risk Management Agency (RMA) Florida Citrus Fruit Crop Provisions.

*Grove* means contiguous acreage of the same citrus crop.

#### § 1416.302 Eligible crops and producers.

(a) A producer must be an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing the citrus crop and is entitled to share in the crop available for marketing from the farm or would have shared had the crop been produced. Producers that did not market citrus in both 2004 and 2005 are not eligible, except producers with groves that will be of fruit-bearing age for 2006, but were too immature to producer marketable fruit in 2004 or 2005.

(b)(1) Citrus producers will be reimbursed on a per-acre basis for each eligible grove. Payment will be based on the severity of destruction as determined by the paths of the storms and damage estimates by CCC considering levels of loss correlating to the severity of damage caused by maximum sustained winds of the hurricane. The levels of damage that will determine payment rates are as follows:

Tier I—75 percent or greater crop loss and associated tree damage.

Tier II—50 to 74 percent crop loss and associated tree damage/loss.

Tier III—35 to 49 percent crop loss and associated tree damage/loss.

Tier IV —15 percent and greater associated tree damage only.

(2) Citrus producers who suffered citrus crop production losses and associated fruit-bearing tree damage, includ-

ing related cleanup and rehabilitation costs, must provide to CCC a certified statement on a CCC-approved form of the level of destruction, the number of acres in the disaster-affected grove, and the geographic location of the losses.

(c) If the actual level of loss is greater than the level of loss associated with the tier based on the location of the grove, the applicant may submit documentation to CCC to request the grove be placed in the next lower-numbered tier which represents a greater level of loss and a higher payment rate. Regardless of the level of loss incurred, the grove can only be placed in the next lower-numbered tier.

(d) If the actual level of loss is less than the tier associated with the location band for the grove, the producer shall certify to the lower loss level, which must be 15 percent or more, on the application and a lower payment rate will be used by CCC based upon the tier rate associated with the lower loss level.

#### § 1416.303 Application process.

(a) Producers wishing to receive benefits must submit a completed application and report of acreage identifying the geographic location and number of acres in the disaster-affected area to their local FSA Service Center at the time an application for payment is being filed according to § 1416.5.

(b) Applicants must certify and provide adequate proof that the losses and expenses incurred to eligible citrus crops were a direct result of the hurricane, in accordance with § 1416.2.

#### § 1416.304 Payment calculations.

(a) Payments will be calculated by multiplying the number of net acres in each tier times the applicable payment rate, as determined by CCC, times the producer's share of the loss. The number of net acres is determined by subtracting drainage ditches, canals, and other such land uses from the citrus acres planted in the grove. The following table provides the applicable payment rates for producers with crop insurance or NAP coverage and those without coverage:

	Producers with insurance or NAP coverage	Producers without insurance or NAP coverage
Tier I .....	\$1,500	\$1,425
Tier II .....	1,000	950
Tier III .....	600	570
Tier IV .....	100	95

(b) The percentages of the payment for citrus crops that are subject to the payment limitation and AGI provisions are:

Tier I—55 percent  
Tier II—60 percent  
Tier III—64 percent  
Tier IV—0 percent

(c) The percentages of the payment for citrus crops that are not subject to the payment limitation and AGI provisions are:

Tier I—45 percent  
Tier II—40 percent  
Tier III—36 percent  
Tier IV—100 percent

#### § 1416.305 Availability of funds.

(a) In the event that the total amount of eligible claims submitted by eligible citrus producers under this subpart and subparts E, F, and G of this part exceeds \$95 million, each payment to an eligible citrus producer shall be reduced by a uniform national percentage, as determined by CCC.

(b) Such payment reduction shall be applied after imposition of applicable per person payment limitation as provided in § 1416.6.

### Subpart E—Fruit and Vegetable Disaster Program

#### § 1416.400 Applicability.

This subpart sets forth the terms and conditions applicable to the Fruit and Vegetable Disaster Program.

#### § 1416.401 Definitions.

*Other than plasticulture* means conventional row-cropped fruits and vegetables, and those crops that are double cropped on a previous crop's or season's plastic.

*Plasticulture* means production practices where the soil has been bedded, fumigated, fertilized, an irrigation sys-

tem installed, and covered with plastic mulch.

*Specialty crop* means any commercially grown fruit or vegetable eligible for crop insurance or NAP coverage.

#### § 1416.402 Eligible fruit and vegetable producers.

(a) Producers of fruits and vegetables utilizing “plasticulture”, and “other than plasticulture” production practices are eligible for assistance. Producer must be an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing the crop and is entitled to share in the crop available for marketing from the farm or would have shared had the crop been produced. Payments will be made on a per-acre basis, and are based on tiers and the severity of destruction as specified for citrus crops and the type of production practice.

(b) Producers must have at least a 35 percent loss in production, or a 15 percent or more associated crop damage. Producers must also document that the necessary materials and procedures were followed to produce vegetables using plasticulture or other than plasticulture.

(c)(1) Fruit and vegetable producers will be reimbursed on a per-acre basis for eligible acreage. Payment will be based on the severity of destruction as determined by the paths of the storms and damage estimates developed by CCC. Estimates take into account levels of loss generally correlating to the severity of damage caused by maximum sustained winds of the applicable hurricanes. The levels of damage that will determine payment rates are as follows:

Tier I—75 percent or greater crop and/or yield loss  
Tier II—50 to 74 percent crop and/or yield loss  
Tier III—35 to 49 percent crop and/or yield loss